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MAXIMUM AVAILABILITY LIMITED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MAXIMUM AVAILABILITY LIMITED, a
New Zealand limited liability company

Plaintiff,

v.

VISION SOLUTIONS, INC., a Delaware
corporation; WILLIAM HAMMOND, an
Individual

Defendants.

CASE No. CV-09-5745-CRB

**[PROPOSED] TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION**

**[PROPOSED] TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE
RE: PRELIMINARY INJUNCTION – CASE No. CV-09-5745-CRB**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 Plaintiff MAXIMUM AVAILABILITY, LTD. (“MAXIMUM AVAILABILITY” and/or
3 “Plaintiff”) having applied Ex Parte for a Temporary Restraining Order and an Order to Show
4 Cause re Preliminary Injunction (the “Application”), and this Court having considered Plaintiff’s
5 Application and supporting papers, and good cause appearing therefor, the Court hereby
6 GRANTS Plaintiff’s Application and issues the following Order.

7 IT IS HEREBY ORDERED that:

8 **TEMPORARY RESTRAINING ORDER**

9 1. Defendant VISION SOLUTIONS, INC. (“VISION”) and its officers, agents,
10 servants, employees, attorneys, successors, assigns, and all others in active concert or
11 participation with VISION, shall immediately cease distribution of the allegedly false and/or
12 misleading statements reflected in Exhibits A and B of the Declaration of Allan Campbell, or any
13 part thereof, in whatever format, including verbal;

14 2. Within five (5) business days of the effective date of this Order, VISION shall
15 disclose to Plaintiff a list of all third parties who received any of the allegedly false or misleading
16 statements in any form, either written or oral, which such list shall include the full details
17 (including names and contact details) of each person or entity who received any of the false
18 and/or misleading statements in any format orally or in writing;

19 3. Within ten (10) business days of the effective date of this Order, VISION shall
20 deliver all infringing marketing and advertising materials (such as marketing, promotional
21 materials, labels, electronic files including product presentations, etc.) in whatever medium to
22 MAXIMUM AVAILABILITY along with an affidavit from VISION confirming, under oath, that
23 all copies of any infringing material have been recovered and delivered to MAXIMUM
24 AVAILABILITY, and that all recipients have been disclosed;

25 4. Within ten (10) business days of the effective date of this Order, VISION shall
26 distribute corrective marketing statements in a form prepared by, or authorized by, MAXIMUM
27 AVAILABILITY, to all recipients of the information confirming that the information relating to
28 noMAX that was contained in Defendant’s Competitive Brief and Product Comparison

documents are incorrect along with confirmation of delivery of such corrective measures provided to MAXIMUM AVAILABILITY.

OSC RE PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED THAT, having considered the matter, Defendants shall appear on February 19, 2010, at 10.00 a.m., to show cause, if any they have, as to why this Court should not issue a preliminary injunction extending the relief ordered above and enjoining Defendants from further acts of false advertising during the pendency of this action. Defendants shall file their Opposition papers, if any, on or before February 4, 2010. Plaintiff shall file its Reply papers on or before February 12, 2010.

IT IS SO ORDERED.

DATED:

UNITED STATES DISTRICT COURT JUDGE

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